

Law Office of Daniel J. Maisano
By: Daniel J. Maisano, Esquire
415 McFarlan Road, Suite 200
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Telephone: (610) 444-4141

Attorney for Defendant
Patricia Maisano, RN

**IN THE UNITED STATES DISTRICT COURT
Eastern District of Pennsylvania**

PATRICIA SMITH, ADMINISTRATRIX OF :	No: 08-cv-5689
THE ESTATE OF MARTHA E. SMITH, :	
DECEASED, et al :	
<i>Plaintiffs</i> :	
:	
vs. :	
:	
ALBERT EINSTEIN MEDICAL CENTER, :	
et al :	
<i>Defendants</i> :	

NOTICE UNDER F.R.C.P. 11

TO: PATRICIA SMITH
MARY SCOTT

PLEASE TAKE NOTICE, that on or after **August 27, 2009**, defendant Patricia Maisano, RN, will, for the following reasons, move the Court for attorney's fees, costs, sanctions and any other available relief pursuant to Rule 11 of the Federal Rules of Civil Procedure:

- The Amended Complaint states no viable claims against defendant Patricia Maisano, RN, but names her as a party;
- The plaintiffs have no basis and had no basis for naming Patricia Maisano, RN as a party to this matter, her only relationship with the decedent was her appointment as guardian of the decedent, Martha E. Smith, on December 22, 2006, a mere 52 days before her death on February 12, 2007;

- The plaintiffs have no specific evidence of any conduct by defendant Patricia Maisano, RN that would impose liability upon her;
- The plaintiffs have no expert or other basis for a medical malpractice claim against Patricia Maisano, RN;
- The plaintiffs repeatedly claim defendant Patricia Maisano, RN is a resident of the State of Delaware when they have been specifically informed by letter from counsel for the defendant, dated June 18, 2009 [and prior to filing the Amended Complaint in which the plaintiffs again allege that defendant Patricia Maisano, RN was a resident of Delaware to fraudulently establish jurisdiction in Federal Court], that defendant Patricia Maisano is, and has been during all times relative to this matter, a resident of the Commonwealth of Pennsylvania (see attached Exhibit “A”); and
- The plaintiffs filed an Amended Complaint, despite knowledge of the above.

You may voluntarily withdraw your claims against defendant Patricia Maisano, RN within twenty-one (21) days of the date of this Notice to avoid a Motion For Sanctions for failing to conduct a reasonable inquiry into the law and facts before submitting these claims to the Court.

Law Office of Daniel J. Maisano

Dated: August 6, 2009

By: _____
Daniel J. Maisano, Esquire

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	:	
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	:	
ALBERT EINSTEIN MEDICAL CENTER,	:	
et al	:	
<i>Defendants</i>	:	

CERTIFICATE OF SERVICE

I, DANIEL J. MAISANO, ESQUIRE, do certify that the foregoing Notice Under F.R.C.P. 11 has been has been mailed *via* first class mail and Certified Mail, postage prepaid, upon the following:

Mary Scott, Pro Se
Patricia Smith, Pro Se
8219 Thouron Avenue
Philadelphia, PA 19150

I further certify that a true and correct copy of the Notice Under F.R.C.P. 11 was filed electronically and is available for viewing and downloading from the E.D. Pa. Electronic Case Filing ("ECF") system.

I further certify that a true and correct copy of the foregoing Notice Under F.R.C.P. 11 has been served electronically *via* the ECF system upon the following:

James E. Pendergast, Esquire
BUTERA & JONES, LLP
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Wayne, PA 19087
Attorney for Defendant Patricia Q. Imbesi

Marc L. Bogutz, Esquire
Matthew Fry, Esquire
CHRISTIE, PABARUE, MORTENSEN & YOUNG, P.C.
1880 JFK Boulevard, 10th Floor
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Attorney for Defendant Anne Maxwell

Daniel J. Siegel, Esquire
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Attorney for Defendant Robert Stump

Sharon M. Reiss, Esquire
Leah B. Perry, Esquire
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Attorney for Defendants: Albert Einstein Medical Center, Beth Duffy, Dr. Robert W. Solit and Dr. Kevin Hails

Denise L. Juliana, Esquire
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Daniel J. Divis, Esquire
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Attorney for Defendant St. Agnes Continuing Care Center

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Attorney for Defendants: The Fox Chase center, Dr, Michael Millenson and Dr. Roger Kyle

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Eileen Keefe, Esquire
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1671 JFK Boulevard
Philadelphia, PA 19103
Attorney for Defendant Moshe Chasky, M.D.

Dated: August 6, 2009

LAW OFFICE OF DANIEL J. MAISANO

BY: _____
Daniel J. Maisano, Esquire

EXHIBIT “A”

LAW OFFICE
OF
DANIEL J. MAISANO
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June 18, 2009

Ms. Patricia Smith
Mary J. Scott
8219 Thouron Avenue
Philadelphia, PA 19150-2018

Re: Estate of Martha Smith v. AEMC, et al

Dear Ms. Smith and Ms. Scott:

I am in receipt of your recently filed Amended Complaint and wanted to point out a number of errors which you repeatedly made in the Amended Complaint and in the Original Complaint.

First, Patricia Maisano was appointed guardian in her individual capacity, not as an owner or employee of IKOR. See Judge Lazarus' Order appointing the temporary guardian.

Second, IKOR Incorporated is a duly registered corporation in the State of Pennsylvania. It is also registered as a "foreign" corporation in the State of Delaware.

Third, IKOR Incorporated maintained an office in Delaware at one time but no longer maintains said office. It was closed over five years ago. IKOR does have a post office box in Yorklyn for the purpose of receiving mail only.

Fourth, IKOR Incorporated is affiliated with IKOR USA Inc. It is NOT affiliated with any other IKOR company. In particular, it is NOT affiliated with IKOR Insurance & Financial Services, LLC nor with ENDO Pharmaceutical Company.

Fifth, Patricia Maisano is a bona fide resident of Chester County, Pennsylvania. She has a Pennsylvania drivers license and voter registration card. She has been a resident of Pennsylvania since at least 1991. She is NOT a resident of Delaware. She owned property in Delaware in the past but has not owned any property in Delaware for the last eight years.

Sixth, there is no Federal or State bonding requirement for guardians. Therefore, your repeated assertion that the appointment of Patricia Maisano as guardian was "illegal" is false and fraudulent. Furthermore, Patricia is bonded, though not required, through IKOR.

For the above reasons, I would urge you to stop misrepresenting the facts to the court. You have an affirmative obligation to be truthful when making allegations in a Complaint. Your repeated attempts at classifying Ms. Patricia Maisano as a resident of the State of Delaware are fraudulent and untrue. You also have an affirmative duty to verify your facts which you obviously have not done.

I would like to point out that you have verified that the facts in the Complaint and the Amended Complaint are "true and correct to the best of your information, knowledge and belief." You also stated that you understand that false statements are subject to the penalties of Pa.C.S.A. §4904 relating to unsworn falsification. Yet, you continue to make false allegations when the simplest investigation would indicate their falsity.

For your reference, Pa.C.S.A. §4904 states:

§§ 4904. Unsworn falsification to authorities. (a) In general.--A person commits a misdemeanor of the second degree if, with intent to mislead a public servant in performing his official function, he: (1) makes any written false statement which he does not believe to be true; (2) submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity; or (3) submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false. **(b) Statements "under penalty".**--A person commits a misdemeanor of the third degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable. **(c) Perjury provisions applicable.**--Section 4902(c) through (f) of this title (relating to perjury) applies to this section. **(d) Penalty.**--In addition to any other penalty that may be imposed, a person convicted under this section shall be sentenced to pay a fine of at least \$1,000. (Nov. 29, 2006, P.L.1481, No.168, eff. 60 days)

I hope that you will now refrain from making any further false allegations in this matter. If you continue, I will bring this matter to the court's attention and ask the authorities to prosecute criminally under Title 18.

Sincerely,

Daniel J. Maisano, Esquire

Enclosure